

instant application. The Examiner is requested to confirm the correct listing of the claims as stated herein.

Claims 1-73 were rejected under 35 U.S.C. §102(b) as being anticipated by public use of the invention provided by references directed to Eurex documents U, V, W, X, and Y. Eurex documents U, V, W, X, and Y, however, fail to render the claimed invention unpatentable. Each of the claims recite a specific combination of features that distinguishes the invention from the prior art in different ways. For example, independent claim 1 recites a combination that includes, among other things:

*“a trading system connected to receive repo quotes from market participants, the repo quotes specifying a repo basket transaction by constituting a security basket definition indicating a security amount and at least one class of securities . . . a settlement system connected to receive settlement instructions relating to repo basket transactions . . . wherein said settlement system comprises a securities pooling and allocation unit adapted to investigate the security basket definition relating to a repo basket transaction and allocate at least one individual security that meets at least one class of securities indicated by the investigated security basket definition.”*

Independent claim 16 recites yet another combination that includes, *inter alia*,

*“transaction system, connected to receive settlement instructions relating to repo basket transactions specified by constituting a security basket definition indicating a security amount and at least one class of securities, comprising . . . a securities pooling and allocation unit adapted to investigate the security basket definition relating to a repo basket transaction and allocate at least one individual security that meets at least one class of securities indicated by the investigated security basket definition.”*

Additionally, independent claim 17 recites another combination that includes, for example,

*“receiving repo quotes from market participants, the repo quotes specifying a repo basket transaction by constituting a security basket definition indicating a security amount and at least one class of securities . . . investigating the security basket definition relating to said repo basket transaction . . . allocating at least one individual security according to given settlement amounts, said at least one individual security meeting at least one class of securities indicated by the investigated security basket definition.”*

Furthermore, independent claim 32 recites yet another combination that includes, *inter alia*,

*“receive repo quotes from market participants, the repo quotes specifying a repo basket transaction by constituting a security basket definition indicating a security amount and at least one class of securities . . . investigate the security basket definition relating to said repo basket transaction . . . allocate at least one individual security according to given settlement amounts, said at least one individual security meeting at least one class of securities indicated by the investigated security basket definition.”*

Additionally, independent claim 33 recites another combination that includes, for example,

*“an input unit for receiving transfer instructions, said transfer instructions specifying a transfer of a group of resources by constituting a definition indicating at least one class of resources and at least one condition under which, after the transfer has been completed, a reverse transfer of the same group of resources or another group of resources within the same at least one class of resources has to occur . . . a resource specification unit for investigating said definition and allocating individual resources for said transfer that meet at least one class of resources indicated by the investigated definition.”*

Furthermore, independent claim 53 recites yet another combination that includes, *inter alia*,

*“receiving transfer instructions specifying a transfer of a group of resources by constituting a definition indicating at least one class of resources and at least one condition under which, after the transfer has been completed, a reverse transfer of the same group of resources or another group of resources within the same at least one class of resources has to occur . . . investigating said definition . . . allocating individual resources for said transfer that meet said at least one class of resources indicated by the investigated definition.”*

Furthermore, independent claim 73 recites yet another combination that includes, *inter alia*,

*“receiving transfer instructions specifying a transfer of a group of resources by constituting a definition indicating at least one class of resources and at least one condition under which, after the transfer has been completed, a reverse transfer of the same group of resources or another group of resources within the same at least one class of resources has to occur . . . investigating said definition . . . allocating individual resources for said transfer that meet said at least one class of resources indicated by the investigated definition.”*

At the very least, Eurex documents U, V, W, X, and Y fail to disclose or suggest any of these exemplary features recited in the independent claims 1, 16, 17, 32, 33, 53, and 73.

To establish anticipation under 35 U.S.C. § 102(b), the Examiner must show that each and every feature recited in these claims is either explicitly disclosed or “necessarily present” in a single prior art reference, such as within the four corners of the Eurex documents. See M.P.E.P. § 2131(7<sup>th</sup> ed. 1998); *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999); *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1269 (Fed. Cir. 1991). To support a conclusion of anticipation, the Examiner must specifically identify “substantial evidence” setting forth why and how the single prior art reference anticipates each and every feature recited in the claims. See *In re Mullin*, 481 F.2d 1333, 1336-37 (CCPA 1973) (An Examiner’s bare assertion that claims were obviously anticipated by a reference did not inform the Applicant as to why the claims lacked novelty); *Dickinson v. Zurko*, 527, U.S. 150 (1999) (The U.S. Patent Office’s findings of fact must be reviewed by the substantial evidence standard).

Viewed against this backdrop, each of the Examiner’s factual conclusions must be supported by “substantial evidence” in the documentary record. See *In re Lee*, 61 U.S.P.Q.2d 1430, 1432 (Fed. Cir. 2002). The Examiner has the burden of documenting all findings of fact necessary to support a conclusion of anticipation or obviousness “less to ‘haze of so-called expertise’ acquire insulation from accountability.” *Id.* To satisfy this burden, the Examiner must specifically identify where support is found within the prior art to meet the requirements of 35 U.S.C. §§ 102(b). In this case, however, the Examiner cannot satisfy his burden of demonstrating how the Eurex documents, taken alone or in combination with any other prior art reference, can either render obvious each and every one of the limitations present in independent claims 1, 16, 17, 32, 33, 53, and 73 as required by the Manual of Patent Examining Procedure (“MPEP”) and Federal Circuit jurisprudence.

As outlined in the previous response, filed November 26, 2007 (and being fully incorporated herein), Applicants noted (beginning on page 17) that the Eurex references are high-level articles and press releases describing features of various electronic services. However, the articles are not specific and only generally describe a repo system including settlement and risk management. The Eurex references do not provide enough detail to enable one of ordinary skill in the art to anticipate the system, method, and/or instructions as recited by Applicants' claims.

Eurex is directed to a repo trading system with a repo basket and a settlement system. However, the repo basket of Eurex appears to be directed exclusively to individual securities (Ref. U and V), rather than to classes of securities, as the claims recite.

Additionally, Eurex does not describe a securities pooling and allocation unit that allocates an individual security based upon a class of security indicated during an investigation, as is recited in the claims. The settlement system of Eurex seems to generally settle repo transactions, with guidelines regarding cash and securities (Ref. X, section 4, page 7). Applicants respectfully submit that Eurex does not mention investigating classes of securities to determine individual securities as recited by Applicants claims.

Furthermore, the Examiner asserts that Eurex describes a group of resources by constituting a definition indicating at least one class of resources, as is recited in claims 33, 53, and 73. However, Applicants submit that Eurex only describes individual resources, and does not teach classes of resources, as is claimed.

Further, the Examiner asserts that Eurex describes investigating the definition and allocating individual resources that meet a class of resources indicated by the investigated definition. However, Eurex only generally describes a settlement system, and does not perform investigations or allocations based upon a class of resources, as is claimed.

Applicants respectfully submit that Eurex does not mention investigating and allocating classes of resources to determine individual resources.

In the current Office Action, under *Response to Arguments*, the Examiner states that Eurex Repo can be used to trade German government securities which one skilled in the art would realize is a class of securities. Even assuming, *arguendo*, that this is correct, the cited prior art fails to teach, *inter alia*, “a security basket definition indicating a security amount and at least one class of securities,” as recited in claims 1, 16, 17, 32, 33, 53, and 73. The Examiner further purports that Eurex Repo, reference X, page 4 shows a screen shot of a repo transaction. According to the Examiner, the transaction “shows an individual security (RHNHYP) that is part of an overall repo basket. Further Applicant does not clearly define in the specification how this investigation is carried out.” However, upon closer inspection reference X, no screen shot of an alleged repo transaction is found by Applicants as is described by the Examiner. Furthermore, for example, Applicants’ claim 1 recites “said settlement system comprises a securities pooling and allocation unit adapted to investigate the security basket definition . . .” Applicants have clearly provided how the investigation is carried out as disclosed in Applicants’ originally filed specification described, at least, on page 10, lines 15-17; FIG. 5 with corresponding description provided, for example, for settlement system 560, collateral management system 540 comprising pooling unit 630 and allocation unit 640 on page 12, lines 1 through page 13, line 18; FIG. 6 with corresponding description provided, for example, for the pooling of the collaterals according to the basket criteria in step 735 and the allocation of the collaterals according to the settlement instructions in step 740. Thus, it is believed that sufficient detail is provided for enabling and clearly defining how the investigation is carried out as recited by the claims. Accordingly, Applicants assert that Eurex documents U, V, W, X, and Y fails to teach, *inter alia*, a

securities pooling and allocation unit adapted to investigate the security basket definition as recited by Applicants' claims in addition to the rest of the claimed elements.

For anticipation under 35 U.S.C. § 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present (M.P.E.P. 706.02). Since each and every element, as set forth in the claims are not found either expressly or inherently described as required by the M.P.E.P., Eurex documents U, V, W, X, and Y cannot be said to anticipate the invention as claimed. Hence, withdrawal of the rejection is respectfully requested.

Each of the dependent claims depend from one of independent claims 1, 17, 33, or 53 and are patentable over the cited prior art for at least the same reasons as set forth above with respect to claims 1, 17, 33, and 53.

In addition, each of the dependent claims also recites combinations that are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is not rendered obvious in view of the prior art references cited against this application. Applicants, therefore, request the entry of this response, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

In discussing the specification, claims, and drawings in this response, it is to be understood that Applicant in no way intends to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned patent agent at (202) 585-8316.

Respectfully submitted,

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